

to the Supreme Authority, the  
Parliament of the Commonwealth  
of ENGLAND.

*The humble Petition of the Owners and Commoners of  
the Town of Iſtelham in the County of Cambridg.*

*Sheweth,*

That the Earl of Bedford, Edward Ruſſel Eſq; Robert Henly Eſq; and Robert Caſtle Eſq; in truſt for the Earl of Bedford's ſervants and adventurers by vertue of a late Act of Parliament, and they have drained your Petitioners Fens, conſiſting of about 2500 acres; and by an Adjudication, as we are informed by the Commissioners mentioned in the ſaid Act, have Ditched out to themſelves about 930 acres of your Petitioners ſaid Fens, and are in poſſeſſion thereof.

Your Petitioners wil make it appear unto your Honors, That, contrary to the Law of God by the ſaid Act parties intereſſed are made Judges.

That the ſaid Act is deſtructive to Propriety; for, by it, the Commissioners (who for ought we know are Judges and Parties) are empowered to take away our Eſtates without our conſents, and ſell it.

It enacts impoſſibilities, and falſities, as, that land to be drained which was never drowned, and that hurtfully ſurrounded which is bettered by overflowing.

We have not been uſed like Engliſh-men, for contrary to the fundamental Laws of the Land, we are diſſeiſed of our Free-holds, ſaid by our witneſſes upon Oath, or by view, or by Juries of the neighbourhood.

In the beginning of the last Parliament, when very few of the Members were engaged in this project. In their first and grand Remonstrance 1641. In the like Case, this draining of us by force was declared, *An Injustice, oppression, violence, project and grievance*, and in more express words, Thus, large quantities of Commons, and Severals have been taken away from the Subject by colour of the Statute of Improvement, and by the abuse of the Commission of Sewers, without their consents, and against it: yet this late Act for Draining hath ratified and confirmed all those agrievances and oppressions which the people suffered concerning draining in the Kings time. The cause of all this is plain and clear; which was, because there were so many Parliament men parties interessed when the said Act was passing.

*The Premises considered, the humble desires of your Petitioners are,*

1. *That we may enjoy our Proprieties, and that (according to the Statute of Improvement of 43 Eliz. Cap. 11. wherein is provision made sufficient for any undertaking for draining whatsoever your Petitioners may be at liberty to make the best of their own And that you will be pleased to consider of our Exceptions against The late Act for Draining, for the repealing thereof, which we humbly tender herewith unto your Honours.*
2. *That our adversaries may not be enabled by their illegal possession of our Estates, to wage Law with us with our own Revenue by receiving this Summers profit of our said Fens. For prevention whereof, we humbly crave your Honours Order for our speedy re-possession of our said Grounds, having already received least 500l. damage by the undertakers pernicious new Ditches in our said Fens.*

And your Petitioners  
shall pray, &c.

Exception

Exceptions taken to a late Act of Parliament, intituled  
*An Act for the Draining the great Level of the Fens.*

**T**He first Exception is against the Title of the Act, viz. *An Act for Draining the great Level of the Fens, extending it self, &c*

There are many fallacies couched under this word *Level*. First it is an *equivocal* word, and hath two significations.

As first, the great Level, signifies a bare flat, whether dry or drowned.

The undertakers cannot mean dry land; for how can that Land be drained which was never drowned? Therefore by the Undertakers meaning, it must be such Land as is really hurtfully surrounded, which are 300000 acres.

The next fallacie in the word *Level*, is, begging of the Question. Taking for granted that 300000 acres are the Level hurtfully surrounded; which in truth are not.

The third fallacie is, the ignorance of a contradiction. As it is the great Level; and not the great Level in divers respects.

As first it is a great Flat or Level, but not such a one as is hurtfully surrounded; for it will be proved many thousands of acres were never drowned, thousands of acres not hurtfully surrounded, but bettered by overflowing: thousands of acres are Osier, Reed, Sedg. So deduct the premised Land, the great Level will be much lessened.

The fourth fallacie in the word *Level*, is joyning such Lands together, that ought to be devided, or calling Good Evill, and Evil Good. As calling dry ground, and Land bettered by overflowing, the Level, or hurtfully surrounded, which words are convertible.

As for instance, in the Town of *Isleham*, which contain 2500. acres of Fens, we have 1200 acres dry Land, and another considerable



derable part of the said Fens are bettered by overflowing. Yet the Undertakers take 930 acres out of the 2500 acres for draining. So being Judges and parties, the Undertakers have mis-stated the Level.

The second Exception is against the Preamble of the said Act, *viz.*

Whereas the said great Level by reason of overflowing of the Rivers of, &c. have been of small, and uncertain profit; but (if drained) may be improved.

The Undertakers take it for granted, the great Level is little worth, because it is hurtfully surrounded, as they falsely suggest. Those who live in the Fens and are neighbours to them, know the contrary.

For first, The Fens breed infinite numbers of Horses, Mares and Colts, and all sorts of other Cattel; and the Horses and Mares are kept on our Fens in Summer, which till our Land.

Secondly, We breed and feed great store of young Cattel, as Calves and Buds which are yearlings; and wee keep great Dairies, which afford great store of Butter and Cheese, and multitudes of Heifers, and other Cattel are fatted on our Fens which afford Hides and Tallow.

Thirdly, We Mow off our Fens, Fother which feeds our Neat in Winter, which being housed, we gather such quantities of Compost or Dung, that it enriches our Pastures and Corn-ground, half in half.

Fourthly, We keep great Flocks of Sheep.

Fifthly, Our Fens are a great relief in a dry Summer, not only to the Uplanders of our own, but neighbour Countries, which otherwise thousands of Cattel would perish.

Sixthly, We have great store of Osier, Reed and Sedg, which are such necessities as the Countries cannot want them for many uses, and sets many poor on work.

Lastly, We have many thousand Cottagers which live on our Fens

Fens, which have no right of Common, which we connive at, otherwise they would go a begging; So that if the Undertakers take away a third part of our Fens, they destroy our Pastures and Corn-ground, and lessen our Revenues proportionably.

What is Cole-Seed, Rape and Hemp? they are but Dutch Commodities, and but trash and trumpery, and pils land, in respect of the fore-cited Commodities, which are the rich Ore of the Commonwealth.

The third Exception is against what is enacted to be the particular bounds and limits of the great Level, much of which we can prove is not the Level, or hurtfully surrounded. As more at large in the first Exception (which we referre our selves unto) it may appear.

Another consideration for the passing this Act is, That the Earl of *Bedford* in the 13 year of King *Charls*, had 95000 acres decreed to him out of the said Level.

*Exception.* This Decree was procured by bribing the King with 12000 acres, and in it self was illegal, for they never had our consents according to the 43. *Eliz.*

It is further alleadged, That the Earl and his participants had made a good progress therein.

*Exception.* The only progresse they made, was to devide the 95000 acres by shares and Lots; for it was found by a Jury at *Huntington*, 14 *Car.* that the said Earl and his participants had not meliorated the said Fens.

Whereas it is suggested, that by reason of some interruptions, the intended benefit of the Commonwealth hath been prevented and delayed.

*Exception.* The interruptions they received were their own fears to proceed, because their undertakings in the beginning of the last Parliament 1641. were declared against.

By the Act, Breaches by inevitable accidents, are in convenient time to be repaired and made good.

*Exception.* The Undertakers may do what they please in convenient time, and in the mean time who shall pay for the peoples suffering? The Commissioners may Judge every great flood an inevitable accident, so they will do nothing for the 95000 acres if they except floods, which is the only cause some lands are hurtfully surrounded.

By the Act the Undertakers may leave 15000 acres for beds and receptacles for water, besides meres, pools, and channels.

*Exception.* Under this pretence they may drain the Earl of Bedford's hurtfully surrounded Lands, as *Thorney Abby* and *Wittlesey*, and make his neighbours Lands which are dry, or bettered by overflowing, the receptacles for water.

By the Act, no Commissioner or Commissioners of Sewers are to intermeddle, &c.

Note, what extraordinary care is taken to obstruct all legal Commissions of Sewers.

By the Act, if we be agrieved, we have no remedy but to appeal to the Commissioners, and that in the Temple-Hall London, the seventh day after every Term.

*Exception.* Upon our complaint there July 6. 1653. we found no redresse of our grievance.

By the Act, the Commissioners have power by view, or otherwise, to adjudge and give livery and finis of our Estates.

*Except.* This they have done without hearing of us.

By the Act, the Commissioners have power at discretion to make our lands which they shall adjudge improved, though not within the pretended Level, to be contributory to the Undertakers.

*Except.* By this, no man knows whether his Estate be free or no.

The Parliament by the Act Declares, That in the adjudication, care shall be taken, &c.

*Except.* But there was no care taken, and therefore we appeal to the Parliament.

By the Act, *Thorney Abby* excepted.

*Ex.* It is part of the Level, and hurtfully surrounded.

The



The Act repeals two Laws or Decrees of Sewers (*viz.*) 19 *Jac.*  
and 14 *Caroli.*

Ex. They were illegal, therefore in themselves nul.

In the Act there are many Commissioners named, whereof some  
annot a<sup>d</sup> : many that have not acted; and some of those who have  
acted, whose names we know not, have put us out of possession of  
acres of our said Fens (unheard) by adjudging those Lands  
ained, which were never drowned; and those hurtfully surround-  
which are bettered by overflowing. And those Commissioners,  
humbly conceive, we have just cause to except against.

This Act for draining us without our consents and against it, is  
together unreasonable and unnecessary.

First by depriving us of the benefit of our legal Commissions of  
wers according to the 23 of H.8. C. 5. whereby each County  
their own Commissioners and Jurors, and every man was com-  
ed once or twice every year, to scoure his part of the old drains  
ing the natural sinks of the Fens) to their widnesse and depths:  
ch Law, were it put in execution, there would very little Land  
hurtfully surrounded.

Secondly by the Statute of Improvement of 43 *Eliz. C. 11.*  
e is provi<sup>s</sup> made sufficient for draining by way of underta-  
g, which is to be by contract between the major part of the ow-  
and Commoners, and the Undertakers, by writing indented  
er their hands and Seals; and the Undertaker is to lay claim  
nothing, but what he hath so contracted for. See the Statute.

*FINIS.*

